

PART 3 – LAND USE

Chapter 1 – Uses Permitted in Residential Districts

Chapter 2 – Uses Permitted in Commercial and Mixed-Use Districts

Chapter 3 – Uses Permitted in Office/Industrial Districts

Chapter 4 – Special Use Standards

Chapter 5 – Non-Conforming Situations

CHAPTER 1 – USES PERMITTED IN RESIDENTIAL DISTRICTS

Section 3-101 Purpose and Applicability.

Section 3-102 Permitted Uses In Residential Districts.

Section 3-101 Purpose and Applicability.

- A. **Purpose.** The residential districts are designed to provide ~~for~~ neighborhoods with a range of housing densities ranging in densities from very low to moderately high. The differences in these housing densities and regulations are intended to support the varying lifestyles of the city's residents. The districts provide for a range of residential habitation including rural-agricultural, single-family, multi-family, *mobile home*, and combinations thereof, together with *home occupations*, *schools*, parks, and public services necessary for neighborhood living.
- B. **Applicability.** Residential zoning districts fall under three categories:
 1. Single-family residential (AG, R1-15, R1-10, R1-8, R1-7, R1-6, R1-5, R1-4 and R1-PAD);
 2. Multi-family residential (R-2, R3-R, R-3, R-4, R-5); and
 3. Mobile home (RMH, MHS and TP).
- C. **Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the *development* standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any *overlay district* requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. See also, Zoning Administrator Opinions in Appendix H.

City code reference—See TCC §14A, Historic Preservation Ordinance. (Provides cross-reference)

Section 3-102 Permitted Uses in Residential Districts.

Table 3-102 identifies land uses according to permit status. See key below the table:

Table 3-102 – Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)				
Uses	Status of Use in District			
	AG	SFR	MF	MH/RMH/TP
Accessory Buildings, Uses and Structures—except accessory dwelling [Section 3-401]	S	<u>U(S)</u>	S	S
Accessory Uses and Structures – except accessory dwelling [Section 3-401]	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
Accessory Dwelling [Section 3-402]	-N	N	<u>U(S)</u>	N
Agriculture, Horticulture, Apiaries , Aviaries, Keeping Livestock [Section 3-404]	S	N	N	N
Apiaries [Section 3-404]	<u>U(S)</u>	<u>N</u>	<u>N</u>	<u>N</u>
Bed and Breakfast [Section 3-405]	U(S)	U(S)	U(S)	N
Boarding Room [Section 3-410]	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>
Boutique [Section 3-406]	S	S	S	N
Cemeteries, Mausoleums, Crematoriums (AG or multi-family districts only)	U	N	U	N
Chickens, Rabbits, Similar Small Animals				
For farming (AG only)	P	N	N	N
Maximum 5 each, excluding roosters and peafowl	P	P	N	N
Construction Offices, Temporary	P	P	P	P
Country Clubs, Private Clubs, Golf Courses	U	U	U	N
Day Care, In-Home				
Not to exceed 6 children [Section 3-407]	<u>PS</u>	<u>PS</u>	<u>PS</u>	N
7 to 10 children [Section 3-407]	U(S)	U(S)	U(S)	N
Fraternity and Sorority Houses in (R-3 and R-4 Districts Only)	N	N	U	N
Group Homes for Adult Care, Disabled Persons with Disabilities , and Child Shelter [Section 3-409]	S	S	S	N
Guest Room [Section 3-410]	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>
Guest Quarters [Section 3-411]	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>
Attached	<u>S</u>	<u>U(S)</u>	<u>N</u>	<u>N</u>
Detached	<u>U(S)</u>	<u>U(S)</u>	<u>N</u>	<u>N</u>
Home Occupations [Section 3-412]	S	S	S	S

Key:

P = Permitted
S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

AG = Agriculture districts
SFR = Single-family districts
MF = Multi-family districts
MH = Mobile home district

RMH = Mobile Home Residence
TP = Trailer Park

Table 3-102 – Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)

Uses	Status of Use in District			
	AG	SFR	MF	MH/RMH/TP
Horse Stables, Commercial (AG only) [Section 3-404]	U	N	N	N
Horses, Keeping of (in the R1-15, R1-10, and AG districts only) [Section 3-404]	S	U(S)	N	N
Hospitals, Sanitariums, Nursing Homes, Convalescent Homes, Orphanages, Institutions of Mentally Disabled (AG, R-3, R-3R, R-4 only) [Section 3-413]	U(S)	N	U(S)	N
Live-Work [Section 3-414]	N	N	U(S)	N
Mobile Homes [Section 3-416]	N	N	N	S
Multi-Family Dwelling (2 or more dwellings)	N	N	P	N
Nursery Schools and Day Care Centers (R-3, R-3R, and R-4 districts only)	N	N	U	N
Parking Facilities for Commercial Uses – (off-street and not enclosed in a building)	N	N	U	N
Places of Worship —(except tents and other temporary structures or buildings not permitted)	P	P	P	P
Processing of Farm Products —(customarily incidental to a permitted farm use and with a net site area of 5 acres or more)	U	N	N	N
Public Uses				
Civic facilities (e.g., post office, library, city office, customer serving)	U	U	U	N
Municipal facilities (maintenance, repair and storage)	U	U	U	N
Open space, parks, similar uses (See also, Schools)	U	U	U	N
Residential Sales Office, Temporary [Section 3-419]	S	S	S	S
Retailing of Farm Products Produced on Premises	U	N	N	N
School, Charter	U	U	NU	NU
School, Private	U	U	NU	NU
School, Public	P	P	P	P
Similar Uses (Any use similar to, and not more detrimental than the uses permitted herein, as determined by the Zoning Administrator, may be permitted) [Section 6-301]	P	P	P	P
Single-Family Dwelling (See Section 7-107, definition of family)	P	P	P	P
Second Story Addition or Replace Single Story with 2 or More Stories [Section 3-420]	U(S)	U(S)	U(S)	N
Temporary Construction Offices and Sheds, Appurtenant Signs and Storage – incidental to a construction project only for the duration of such project, not to exceed 24 months	P	P	P	P
Wireless Telecommunication Facilities [See Section 3-421]	U(S)	U(S)	U(S)	U(S)
Amateur Radio Antennas [Section 3-422]				
35 feet in height or less	PS	PS	PS	PS

Key:

P = Permitted
 S = Permitted with special standards or limitations
 U = Use permit required
 N = Not permitted

AG = Agriculture districts
 SFR = Single-family districts
 MF = Multi-family districts
 MH = Mobile home district

RMH = Mobile Home Residence
 TP = Trailer Park

Table 3-102 – Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)

Uses	Status of Use in District			
	AG	SFR	MF	MH/RMH/TP
Over 35 feet in height	U(S)	U(S)	U(S)	U(S)

(Would allow schools in all districts for consistency)

(Would allow Temp. Const. Offices for consistency)

CHAPTER 2 – USES PERMITTED IN COMMERCIAL AND MIXED-USE DISTRICTS

Section 3-201 Purpose and Applicability.

Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts.

Section 3-201 Purpose and Applicability.

A. **Purpose.** The commercial and *mixed-use* districts ~~land-use standards are intended established to provide to~~ Allow a mixture of complimentary land uses ~~that may include~~ *retail, offices, commercial services, civic uses, and housing. These districts are intended to create economic and social vitality, and to encourage the linking of tripstrip reduction; and develop commercial and mixed-use areas that encourage walking pedestrian circulation as an alternative to driving and provide employment and housing options.* *(Pedestrian circulation appears to be a more appropriate term)*

B. **Applicability.** Commercial and *mixed-use* districts fall under six categories:

1. Residential/Office (R/O). The R/O district allows professional and administrative *services, live-work, and limited retail* uses on small parcels located between higher *intensity* commercial and multi-use zones and residential zones;
2. Commercial Shopping and Services (CSS) (formerly known as CCR, C-1 and C-2 districts). The CSS district is intended to meet the daily shopping and *service* needs of Tempe's neighborhoods;
3. City Center (CC) ~~(formerly known as CCD)~~. The CC district fosters employment and livability in Tempe's city center by providing *retail, offices, moderate- and high-density* residential uses, *entertainment, civic uses, and cultural exchange* in a *mixed-use* environment that supports the public investment in transit and other public facilities and *services*;
4. Planned Commercial Center (PCC-1, PCC-2). The PCC districts are for neighborhood (PCC-1) or general (PCC-2) retailing, *services and entertainment* uses oriented to serve the needs of the neighborhood, community or the metropolitan region. ~~Both districts require approval of a Planned Area Development (PAD). Residential uses and mixed-use may be allowed subject to a use permit; permitted if approved as part of the PAD or PAD amendment;~~
5. Regional Commercial Center (RCC). The RCC district provides regional shopping facilities in locations deemed appropriate to serve large demographic areas (requires a PAD Overlay); and

6. *Mixed-Use Commercial and Residential [MU-1, MU-2, MU-3, MU-4 (MU-4 formerly known as MG district)]. ~~The All~~ MU zone districts ~~allow-require~~ the integration of commercial and residential uses to support walking-pedestrian circulation and transit as alternates to driving, and to provide employment and housing options. MU districts allow a range of *development* intensities and uses including, but not limited to: personal and professional *services*, institutional and *civic uses, retail, multi-family dwellings, attached single-family dwellings, and mixed-use buildings and building sites.* All *mixed-use* districts require a PAD Overlay for processing.*

(This change will keep the proposed code aligned with the existing ordinance and maintain the requirement that mixed use projects provide residential as a component of the development. This was an integral part of the initial MU concept.)

(Pedestrian circulation appears to be a more appropriate term)

- a. The MU-1 district allows low to medium *density* housing to be combined with commercial, *office* and *public uses* that serve the neighborhood. Residential uses are allowed up to ten (10) units per acre. Permitted commercial uses are limited to those that are compatible with low to medium *density* housing.
- b. The MU-2 district allows medium *density* housing to be combined with commercial, *office* and *public uses* that serve the neighborhood. Residential uses are allowed up to twenty (20) units per acre. Permitted commercial uses include those that are allowed in the MU-1 district, and some *hotels, motels* and lodging when approved with a *use permit*.
- c. The MU-3 district allows medium to high *density* housing to be combined with commercial, *office* and *public uses* that serve the neighborhood and/or community. Residential uses are allowed up to thirty (30) units per acre. Permitted commercial uses include those that are allowed in the MU-1 and MU-2 districts, and *hotels and motels* (permitted); and *hospitals, commercial parking, and retail, financial and restaurant* uses with drive through facilities when approved with a *use permit*.
- d. The MU-4 district (formerly known as MG district) allows unlimited housing *density* in a *mixed-use* setting with commercial, *office*, and *public uses*. *Development intensity* in the MU-4 district is established through the PAD Overlay process and must be consistent with the General Plan and the city's ability to provide public facilities.

- C. **Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the *development* standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any *overlay district* requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See Appendix H.

City code reference—See TCC §14A, Historic Preservation Ordinance. (Provides cross-reference)

Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts

Table 3-202A identifies land uses according to permit status. See key below the table:

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)						
Uses	Status of Use District					
	R/O	CSS	CC	PCC1	PCC 2	RCC
Accessory Use	P	P	P	P	P	P
Bakery	N	P	P	P	P	P
Brewery, <u>ancillary to a bar (a)</u> <u>(Use permit already required for bars)</u>	N	UP	UP	UP	UP	P
Cemeteries, Crematoriums and Mausoleums	N	U	U	U	U	N
Childcare Center	P	P	P	P	P	P
Clinic (medical, dental, veterinary (small animals))	P	P	P	P	P	P
Clubs						
Bar (indoor or outdoor), tavern, or nightclub (a)	N	U	U	U	U	P
Lodge or similar organization (a)	N	P	P	P	P	P
Teen night club (a)	N	U	U	U	U	U
Convenience Store (a)	N	P	P	P	P	P
With gas/fuel sales (a)	N	U	N	U	U	P
Entertainment	N	U	U	U	U	P
Amusement businesses (a)	N	U	U	U	U	P
Outdoor (permanent use)	N	U	U	U	U	U
Theater or similar use	N	P	P	P	P	P
Financial Institutions	P	P	P	P	P	P
Fine Arts Class Instruction	U	P	P	P	P	P
Heliport	N	U	U	U	U	U
Hospitals, Sanitariums, Nursing Homes, Convalescent Homes, Orphanages, Institutions of Mentally Disabled [Section 3-413]	N	U(S)	U(S)	U(S)	U(S)	U(S)
Hotels and Motels (a) <u>(Provides a more balanced list of allowed uses in downtown)</u>	N	U	UP	U	U	P
Live-Work [Section 3-414]	PS	N	PS	<u>U(S)</u>	<u>U(S)</u>	N
Mini-Warehouse/ <u>Rental Storage Facilities</u> [Section 3-415]	N	U(S)	N	U(S)	U(S)	S

Key:

P = Permitted
S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

R/O = Residence/Office
CSS = Commercial Shopping and Services (formerly CCR, C-1, C-2 districts)
CC = City Center
PCC1 = Planned Commercial Center Neighborhood
PCC2 = Planned Commercial Center Comprehensive
RCC = Regional Commercial Center

(a) Security plan required. See Appendix.

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)

Uses	Status of Use District					
	R/O	CSS	CC	PCC1	PCC 2	RCC
Offices	P	P	P	P	P	P
Outdoor Storage of equipment, goods, or materials	N	N	N	U	U	U
Parking, Commercial						
Surface	N	U	U	P	P	P
Structure	N	U	P	U	U	P
Photography Studio	P	P	P	P	P	P
<u>Places of Worship – except tents and other temporary structures or buildings not permitted</u> <u>(Clarifies that places of worship are allowed in any district)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Public Uses						
Civic facilities (e.g., post office, library, city office, customer serving)	P	P	P	P	P	P
Municipal Facilities (maintenance, repair and storage)	N	U	U	U	U	U
Open space, parks, similar uses (See also, Schools)	P	P	P	P	P	P
Radio and Television Studios with Receiving and Transmitting Towers	N	U	N	U	U	P
Residential, caretaker residence	P	P	P	P	P	P
Residential: <u>except caretaker residence</u> <u>(Correction and clarification of where uses occur)</u>	P	<u>NU</u>	P	U	U	N
Restaurants (a)	N	P	P	P	P	P
Entertainment as accessory use (a)	N	U	U	U	U	P
Outdoor dining (a)	N	P	P	P	P	P
With drive-in or drive-through, [Section 3-408]	N	S	N	S	S	S
With liquor license (a)	N	P	P	P	P	P
Retail Sales	N	P	P	P	P	P
Drive-through or drive-in [Section 3-408]	N	U(S)	<u>P(S)</u>	<u>P(S)</u>	<u>P(S)</u>	<u>P(S)</u>
Outdoor retail display [Section 3-418]	N	N	S	N	N	N
Outdoor retailing <u>related to special sporting events, temporary (a) [Section 3-417]</u> <u>(see sec. 3-417 and 6-309 L. for explanation)</u>	N	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>
Pawn shops (a)	N	U	U	U	U	U

Key:

P = Permitted
S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

R/O = Residence/Office
CSS = Commercial Shopping and Services (formerly CCR, C-1, C-2 districts)
CC = City Center
PCC1 = Planned Commercial Center Neighborhood
PCC2 = Planned Commercial Center Comprehensive
RCC = Regional Commercial Center

(a) Security plan required. See Appendix.

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)

Uses	Status of Use District					
	R/O	CSS	CC	PCC1	PCC 2	RCC
Schools, Charter	U	U	U	U	U	U
Schools, Private	U	U	U	U	U	U
Schools, Public	P	P	P	P	P	P
Services						
Barber/ beauty salon	P	P	P	P	P	P
Drycleaner	N	P	P	P	P	P
Catering service	N	P	P	P	P	P
Courier/delivery service	N	U	U	U	P	P
Minor appliance repair	N	P	P	P	P	P
Personal or business	N	P	P	P	P	P
Tattoo shops, body piercing	N	U	U	U	U	U
Travel agency	N	P	P	P	P	P
Similar Uses Any use similar to, and not more detrimental than the uses permitted herein, as determined by the Zoning Administrator, may be permitted [Section 6-301]	P	P	P	P	P	P
Taxi Dispatch	N	U	U	U	P	P
<u>Temporary Construction Offices and Sheds, Appurtenant Signs and Storage – incidental to a construction project only for the duration of such project, not to exceed 24 months</u> <i>(Error of omission in the first draft)</i>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Tutoring/After School Learning Center	P	P	P	P	P	P
Vehicle						
Car wash, full service [Section 3-408]	N	U	N	U(S)	U(S)	S
Car wash, self service [Section 3-408]	N	U(S)	N	U	U	P
Vehicle repair/service	N	N	U	U	U	P
Sales, rental	N	N	U	U	U	P
Service station/fuel sales [Section 3-408]	N	U(S)	N	U(S)	U(S)	S
Warehouse Commercial	N	P	P	P	P	P
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)	U(S)	U(S)	U(S)
Amateur Radio Antennas <u>[Section 3-422]</u>						
35 feet in height or less	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>
Over 35 feet in height	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)

Uses	Districts			
	MU-1	MU-2	MU-3	MU-4
Accessory Use	P	P	P	P
Bakery	P	P	P	P
Bed and Breakfast	P	P	P	P
Brewery, <u>ancillary to a bar</u> (a) <i>(use permit requirement is already in place for bars)</i>	UP	UP	P	P
Childcare Center	P	P	P	P
Clinic (medical, dental, veterinary (small animals))	P	P	P	P
Clubs				
Bar, tavern, nightclub (a)	U	U	U	P
Lodges & similar organization (a)	U	P	P	P
Teen nightclub (dance hall) (a)	N	N	U	P
Entertainment	U	U	P	P
Amusement (arcade) (a)	N	U	U	P
Outdoor/permanent use	N	N	N	N
Theater or similar use	U	U	U	P
Financial Institutions	P	P	P	P
With drive-through	N	N	U	P
Fine Arts Class Instruction	P	P	P	P
Freight Transportation and Distribution	N	N	N	N
Hospitals, except clinics	N	N	U(S)	U(S)
Hotels and Motels (a)	N	U	P	P
Live-Work [Section 3-414]	PS	PS	PS	PS
Mini-Warehouse [Section 3-415]	N	N	N	N
Offices	P	P	P	P
Outdoor Storage of equipment, goods, or materials	N	N	N	N
Parking, Commercial				
Surface	N	N	U	U
Structure	N	N	U	U

Key:

P = Permitted
S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

MU-1 = Low – Medium Density District
MU-2 = Medium Density District
MU-3 = Medium – High Density District
MU-4 = High Density District (formerly MG district)

(a) Security plan required. See Appendix.

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)

Uses	Districts			
	MU-1	MU-2	MU-3	MU-4
Photography Studio, except adult oriented businesses	P	P	P	P
Places of Worship – except tents and other temporary structures or buildings not permitted (clarifies that places of worship are allowed in any district)	P	P	P	P
Public Uses				
Civic facilities (e.g., post office, library, city office, customer serving)	P	P	P	P
Municipal Facilities (maintenance, repair and storage)	N	N	N	N
Open space, parks, similar uses (See also, Schools)	P	P	P	P
Residential caretaker residence	P	P	P	P
Residential (all types)	P	P	P	P
Restaurants	P	P	P	P
Entertainment as accessory use (a)	U	U	U	P
Outdoor seating	P	P	P	P
With drive-in or drive-through [Section 3-408]	N	N	U	P
With liquor license (a)	P	P	P	P
Retail Sales:	P	P	P	P
Drive-through [Section 3-408]	N	N	U(S)	S
Outdoor retailing related to special sporting events, temporary [Section 3-417] (see sec. 3-417 and 6-309 L. for comments)	NU(S)	UN(S)	US(S)	SU(S)
Pawn shops	N	N	N	N
Schools, Private & Charter: may include dormitories	U	U	U	U
Schools, Public	P	P	P	P
Services				
Personal or business (e.g. beauty, drycleaner)	P	P	P	P
Tattoo shops, body piercing facilities	N	N	U	U
With drive-through (e.g. dry cleaner) [Section 3-408]	N	S	S	S
Similar Uses: Any use similar to, and not more detrimental than the uses permitted herein, as determined by the Zoning Administrator, may be permitted [Section 6-301]	P	P	P	P

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)

Uses	Districts			
	MU-1	MU-2	MU-3	MU-4
<u>Temporary Construction Offices and Sheds, Appurtenant Signs and Storage – incidental to a construction project only for the duration of such project, not to exceed 24 months</u> <i>(Should be permitted in all districts)</i>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Tutoring/After School Learning Center	P	P	P	P
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)	U(S)
Amateur Radio Antennas, 35 feet in height or less <u>[Section 3-422]</u>	P <u>S</u>	P <u>S</u>	P <u>S</u>	P <u>S</u>
Amateur Radio Antennas, over 35 feet in height <u>[Section 3-422]</u>	U(<u>S</u>)	U(<u>S</u>)	U(<u>S</u>)	U(<u>S</u>)

Key:

P = Permitted
S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

MU-1 = Low – Medium Density District
MU-2 = Medium Density District
MU-3 = Medium – High Density District
MU-4 = High Density District (formerly MG district)

(a) Security plan required. See Appendix.

CHAPTER 3 –USES PERMITTED IN OFFICE/INDUSTRIAL DISTRICTS

Section 3-301 Purpose and Applicability.

Section 3-302 Permitted Uses in Office/Industrial Districts.

Section 3-301 Purpose and Applicability.

A. Purpose. The *office*/industrial districts are designed to provide for *office*/industrial business involved in research, warehousing, *wholesaling*, and manufacturing. The facilities range from administrative and research institutions to assembly and production. The *office*/industrial districts allow a range of industrial uses, as expressed below.

B. Applicability. Industrial uses are accommodated in three districts:

1. Office Buffer District (OBD) (formerly known as IBD district). Administrative and research industries, *offices*, and limited manufacturing to provide opportunities for employment and for protection to neighborhood residential areas;
2. Light Industrial District (LID) (formerly known as I-1 and 1-2 districts). *Office* uses, warehousing, *wholesaling*, assembling and manufacturing of *building* materials, machinery and other commodities to provide employment centers and production; and
3. Heavy Industrial District (HID) (formerly known as I-3 district). Intensive manufacturing, fabricating, and storage to provide for concentrated industrial uses.

C. Applicability of Other Code Chapters. Uses permitted under this chapter shall conform to the *development* standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any *overlay district* requirements that are applicable. Uses permitted with special standards or limitations (“S” type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See Appendix H.

City code reference—See TCC §14A, Historic Preservation Ordinance. (Provides cross-reference)

Section 3-302 Permitted Uses in Office/Industrial Districts.

Table 2-302A identifies land uses according to permit status. See key below the table:

Table 3-302A Permitted Land Uses (OBD, LID, HID)			
Uses	Districts		
	OBD	LID	HID
Accessory Use	P	P	P
Adult Businesses [Section 3-403]	N	S	S
Animal Kennels, and Animal Hospitals	N	P	P
Auto Body Repair	N	P	P
Automobile Salvage	N	N	P
Ball Bearing, Boxes or Cabinets Manufacturing	N	U	P
Cement and Paving Material Mixing Plant	N	N	P
Chocolate, Cocoa or Coffee Roasting or Manufacturing	N	U	P
Clinics: General, Medical, Dental, and Veterinary	P	P	P
Computer Centers, including Computer Hotels and Similar Technology Facilities	P	P	P
Electronic Instruments and Devices, <u>Computers</u> , Assembling and Manufacturing (<i>expands list of allowed uses to reflect current technologies.</i>)	P	P	P
Exterminator and Insect Poison Manufacturing	N	N	P
Extraction of Sand, Gravel and Other Natural Resources	N	N	U
Farming, Landscaping and Agricultural Supplies and Equipment, Wholesaling and Storage	N	P	P
Foundry Casting Light-Weight, Nonferrous Metal, not Causing Noxious Odors or Fumes	N	U	P
Fuel Distributing Station, Gasoline (bulk plant)	N	U	P
Gasoline and Petroleum Bulk Storage Tanks	N	N	P
House-Movers, Equipment Storage or Wrecking Yards	N	N	P
Ice Manufacturing and Storage	N	U	P
Industrial, Scientific, <u>Bio-Technology</u> or Business Research, Development and Testing Laboratories, and Offices	P	P	P
Junkyards	N	N	P
<u>Machine shops</u> (<i>expands list of allowed uses</i>)	<u>N</u>	<u>P</u>	<u>P</u>
<u>Manufacturing, not causing noxious orders, fumes, noise, dust or vibration</u> (<i>expands list of allowed uses</i>)	<u>N</u>	<u>P</u>	<u>P</u>
Mini-Warehouse/ <u>Rental Storage Facilities</u> [Section 3-415]	N	U(S)	S
Mobile Home or Trailer – as a residence for a caretaker or operator employed on the premises. The residence may include the family of the caretaker.	U	U	U

Key:

P = Permitted
 S = Permitted with special standards or limitations
 U = Use permit required
 N = Not permitted

OBD = Office Buffer District (formerly IBD district)
 LID = Light Industrial District (formerly I-1, I-2 district)
 HID = Heavy Industrial District (formerly I-3 district)

Table 3-302A Permitted Land Uses (OBD, LID, HID)

Uses	Districts		
	OBD	LID	HID
Motion Picture Studios	P	P	P
Offices	P	P	P
<u>Places of Worship – except tents and other temporary structures or buildings not permitted</u> <u>(clarifies that places of worship are allowed in any district)</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Public Uses</u>			
<u>Civic facilities (e.g., post office, library, city office, customer serving)</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Municipal Facilities (maintenance, repair and storage)</u>	<u>N</u>	<u>P</u>	<u>P</u>
<u>Open space, parks, similar uses (See also, Schools)</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>(Is consistent with current ordinance and reflects the need of these uses throughout the city)</u>			
Residence – of a caretaker or operator employed on the premises; such residence may include the family of the caretaker	P	P	P
Retail Commercial Operations – directly related to the primary industrial use may be permitted, provided they do not exceed 15% of the primary industrial use.	N	P	P
Retail Uses – allowed in the commercial and mixed-use districts (except outdoor display) may be allowed with a use permit [Section 3-202]	N	U	U
Similar Use – any use similar to, and not more detrimental than the uses permitted herein, as determined by the Zoning Administrator, may be permitted upon [Section 6-301]	<u>UP</u>	<u>UP</u>	<u>UP</u>
Stadium, Arenas	N	U	P
Temporary Construction Offices and Sheds, Appurtenant Signs and Storage – incidental to a construction project only for the duration of such project, not to exceed 24 months	P	P	P
Warehouse, <u>including distribution centers</u> <u>(Clarifies uses allowed in warehouses)</u>	N	P	P
Wholesaling, Repairing, Storage, and Rental Activities – in conjunction with a permitted use	N	P	P
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)
Amateur Radio Antennas <u>[Section 3-422]</u>			
35 feet in height or less	<u>PS</u>	<u>PS</u>	<u>PS</u>
Over 35 feet in height	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>
Wood Products, Manufacturing	N	U	P

Key:

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

OBD = Office Buffer District (formerly known as IBD)

LID = Light Industrial District (formerly known as I-1, I-2)

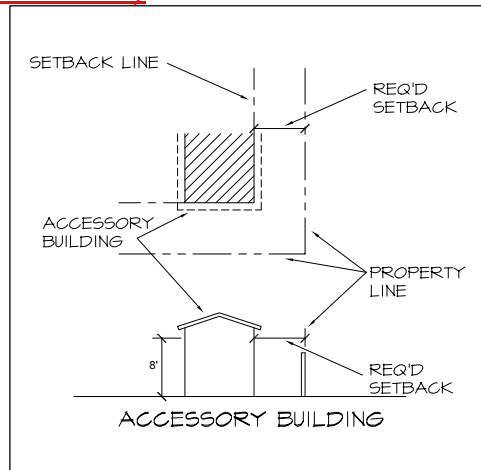
HID = Heavy Industrial District (formerly known as I-3)

CHAPTER 4 – SPECIAL USE STANDARDS

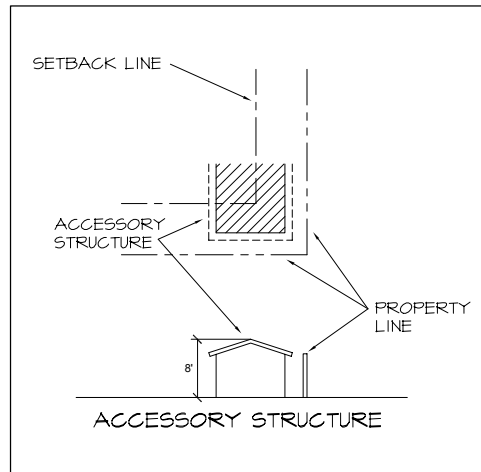
- Section 3-401 Accessory Buildings, Uses and Structures.
- Section 3-402 Accessory Dwellings.
- Section 3-403 Adult-Oriented Businesses.
- Section 3-404 Agricultural Uses.
- Section 3-405 Bed and Breakfast.
- Section 3-406 Boutique.
- | Section 3-407 Day Care, In Home ~~7-10 Children~~.
- Section 3-408 Drive-Through Facilities.
- | Section 3-409 Group Homes for Adult Care, Persons with Disabilities, and Child Shelter.
- | Section 3-410 Guest Boarding Room.
- Section 3-411 Guest Quarters.
- Section 3-412 Home Occupation.
- Section 3-413 Hospitals, Sanitariums, Nursing Homes.
- Section 3-414 Live-Work.
- | Section 3-415 Mini-Warehouse/Rental Storage Facilities.
- Section 3-416 Mobile Homes.
- | Section 3-417 Outdoor Retailing, ~~Relating to Special Sporting Events~~.
(Replaces the original)
- Section 3-418 Outdoor Retail Display.
- Section 3-419 Residential Sales Office, Temporary.
- Section 3-420 Single-Family Residential Second Story Addition or Rebuild.
- | Section 3-421 Wireless Telecommunication Facilities.
- | Section 3-422 Amateur Radio Antennas.

Section 3-401 Accessory Buildings, Uses and Structures.

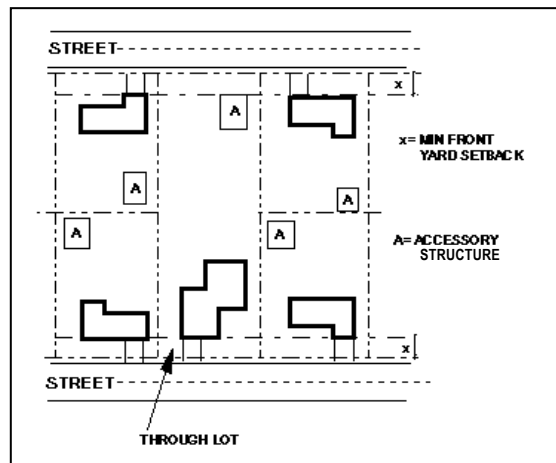
- A. Applicability.** *Accessory buildings, uses and structures* shall be incidental to the principal use. They must occupy less floor area, cover less *lot* area, and have a use that is secondary to the primary *structure(s)* and use(s) on the property. *Buildings, structures* (e.g., fence, carport, deck, etc.), and uses may all function as “accessory,” subject to the provisions below.
- B. Accessory Uses:** Accessory Buildings may be used for *home occupations* in reference to Section 3-412.
- C. Accessory Building.** *Accessory buildings* (e.g., freestanding garages, large sheds, workshops, etc.) shall not be used for sleeping or living purposes, shall not have cooking facilities, are limited to the height of the existing residence, and must meet the *setbacks* for the district.
1. **Use Permit.** A use permit is required for accessory buildings in the AG and all Single-Family Residential Districts.
(Clarifies what these buildings could be)



- D. Accessory Structure.** An accessory *structure* (e.g., ramadas, small sheds) shall be located no closer to the front *property line* than the front *yard setback*, be limited to a maximum one hundred twenty (120) s.f. in area, and shall be equal to or less than eight (8) feet in height; an accessory *structure* may encroach into the rear, side, and street side *yard setback*, provided that required separation for fire protection is provided and the following standards are met: (Clarifies what these structures could be)



1. On a *lot* in the AG district, an accessory *structure* shall not be located closer than twenty (20) feet from rear and side *property lines*;
2. On a *through lot*, an accessory *structure* shall not be located closer to the rear *property line* than the distance required for front *yard setback*; and



3. On a residential *lot* in the AG district, a shelter for the keeping of animals or fowl may be erected to the maximum height allowable for the main *building* in that district, subject to the *setback* requirements in Section 3-401D.

Section 3-402 Accessory Dwellings.

Accessory dwelling units (ADUs) are permitted in the multi-family districts when a property contains a single-family residence, provided the following standards are met:

- A. **Use Permit.** Subject to approval of a *use permit*;
- B. **Building Codes.** Comply with applicable building codes and structural specialty codes;

- C. **One ADU per Lot.** A maximum of one (1) *accessory dwelling* unit is allowed per multi-family *dwelling lot*. Only *accessory dwelling* units shall be used for sleeping or living purposes;
- D. **Floor Area.** The ~~maximum-minimum~~ floor area of the *accessory dwelling* shall not be less than two hundred twenty (220) square feet or that required by the City of Tempe Building Code for rental housing, whichever is greater, nor to exceed twenty (20) percent of the floor area of the main residence on site; exceed six hundred (600) square feet;
- E. **Development Standards.** Comply with the *setback*, *building height*, *lot coverage*, and other applicable *development* standards. The ADU does not count toward *allowable density*; and
- F. **Infrastructure.** Sewer, water and utility *services* shall be provided to the *dwelling* in conformance with city standards.

Section 3-403 **Adult-Oriented Businesses.**

- A. **Purpose.** It is recognized that there are some uses, which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several such uses are concentrated under circumstances having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to insure that these adverse secondary effects will not contribute to the blighting or downgrading of the existing surrounding neighborhood. These special regulations are itemized in this section. The purpose of the regulation is to promote the health, safety, and general welfare of the citizens of the city by preventing a concentration of these uses in any one area. It is not the intent of this Code to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented *entertainment* to their intended market. Further, it is not the intent of this Code to permit any use or act, which is otherwise prohibited or made punishable by law.

Cross reference—See also the following definitions in Part 7 of this Code: *adult-oriented business*, *adult arcade*, *adult bookstore* or *adult video store*, *adult cabaret*, *adult motel*, *adult motion picture theater*, *adult novelty store*, *adult service*, *adult service business*, *adult theater*, *adult video facility*, *escort*, *escort agency*, *nude model studio*, *nudity/state of nudity*, *sexual encounter center*, *specified anatomical areas* and *specified sexual activities*.

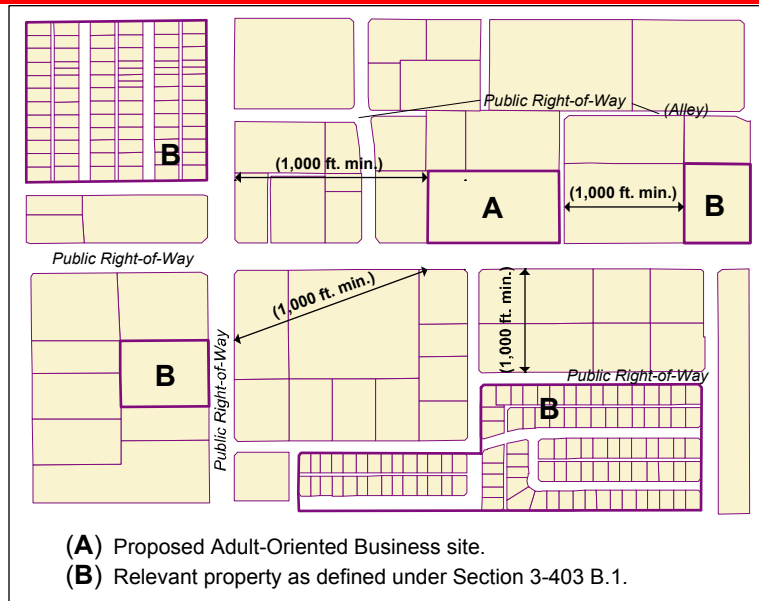
City code reference—See TCC §16A-56, *escort* definitions and rules; TCC §16A-112 et seq., *adult-oriented businesses*.

- B. **Locational Requirements.** *Adult-oriented businesses* are subject to the following:
 1. Allowed in the LID and HID zoning districts, subject to the following location requirements:

- a. No *adult-oriented business* shall be operated or maintained within one thousand (1,000) feet of another *adult-oriented business*; a *church*, synagogue, temple, or similar religious worship *building*; a child care facility, preschool, nursery, *kindergarten* or similar use; a public or private elementary or secondary *school*; a library; a public park; a public community *building*; a public or private recreational facility where minors are permitted;
 - b. No *adult-oriented business* shall be operated or maintained within one thousand (1,000) feet of an establishment having an Arizona spirituous liquor license with any of the following classifications: *Bar* (Series 06); Beer and Wine Bar (Series 07) or the equivalent of such licenses; and
 - c. No *adult-oriented business* shall be operated or maintained within one thousand (1,000) feet of a boundary of a residential district as defined herein; or the *property line* of a *lot* devoted to a residential use in any zone.
2. For the purpose of subsection 1 above, the distance limitations ~~in~~ shall be measured as the shortest horizontal line between the *property lines* of the relevant property~~ies~~ involved. This measurement shall exclude any public right-of-way that is adjacent and connected to the recorded lot lines of the relevant properties involved in the measurement.

(This recommendation is proposed based on a court order)

Figure 3-403. Adult-Oriented Business Separation Requirement



3. Any *adult-oriented business* that fails to comply with this section but which was lawfully operating before City Code Chapter 16A Article VI, took effect shall not be deemed to be in violation of this article when the article takes effect. However, such business will not be permitted to be increased, enlarged, extended or altered except the business may be changed so as to fully comply with this article. An *adult-oriented business* lawfully operating is not rendered in violation of this Code by the location, subsequent to the grant or renewal of the license herein, of any of the premises identified in subsections 1 and 2 above. (Ord. No. 95.49, 12-14-95)

C. Operational Requirements. Any *adult-oriented business* shall comply with the following requirements, as well as those contained in Tempe City Code, Chapter 16A 112 through 135:

1. Security plan required;
2. For the prevention of the spread of sexually transmitted disease, no partitions between *subdivisions* of a room, portion or part of a *building, structure* or premises may have an aperture which is designed or otherwise constructed to permit sexual activity between persons on either side of the partition; and
3. No booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of *entertainment*, shall have doors, curtains or portal partitions, but all such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of *entertainment* are visible from the adjacent public rooms, but such lighting shall not be of such *intensity* as to prevent the viewing of the motion pictures or other offered *entertainment*:
 - a. The words "booth, stalls, partitioned portions of a room or individual rooms" mean such enclosures as are specifically offered to the public or members of that establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the *entertainment* to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the *entertainment* is dispensed for a fee, but a fee is not charged for mere access to the enclosure;
 - b. The words "booths, stalls, partitioned portions of a room or individual rooms" do not mean such enclosures that are private *offices* used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing *entertainment* for a fee, and are not open to any persons other than employees;
 - c. The words "doors, curtains or portal partitions" mean full, complete, nontransparent closure devices through which one cannot see or view the activity taking place within the enclosure; and

- d. The words "open to adjacent public room so that the area inside is visible to persons in the adjacent public room" shall mean either the absence of any "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexiglass or other such material meeting building code and safety standards, extending from the floor to the top of the door frame, exclusive of the door or device framing itself, so that the activity inside the enclosure may be viewed or seen by persons outside the enclosure.

Section 3-404 **Agricultural Uses.**

Agricultural uses, as provided in subsections A-G, below, are permitted in the AG district and shall conform to the following standards:

- A. Farming.** Farming, including all types of agriculture and horticulture, such as flower and vegetable gardening, field crops, berry and bush crops, tree crops, and orchards, and their storage.
- B. Livestock.** The keeping of livestock, including cattle, horses, sheep, goats or similar animals except the keeping of swine. The number of such livestock permitted shall be calculated on the basis of one horse, cow or similar animal, or two (2) sheep, goats or similar animal for each six thousand (6,000) square feet of net *lot* area after deducting one-half (1/2) acre for the home site. The total aggregate of all such animals permitted shall be twenty-four (24). Animals of six (6) months or younger shall not be counted.
- C. Apiaries.** Apiaries, upon the following conditions:
1. Occupied bee hives shall be at least two hundred (200) feet from any existing *dwelling* on another property;
 2. Occupied bee hives shall have a minimum separation of fifty (50) feet to any *property line*; ~~and~~
 3. Occupied bee hives shall have a minimum separation of one hundred fifty (150) feet to any *street* or bridle path-; and
 4. Apiaries shall require a use permit.
(Grammar change)
- D. Grazing.** The grazing and keeping of cattle, sheep or horses, except swine on a site of five (5) or more acres; including the supplementary feeding of such cattle, sheep, or horses, provided such grazing is not a part of, nor conducted in conjunction with any dairy or livestock sales *yard* located on the same premises.
- E. Processing of Farm Products.** Farming and processing of farm products, customarily conducted on farms, is permitted on a site of five (5) or more acres.
- F. Horse ~~Ranch~~Stables.** A commercial horse ~~ranch-stable~~ may be permitted with a minimum net site of ten (10) acres or more.

4.G. Keeping of Horses. The keeping of horses for residential use are permitted in the AG district subject to Section 3-404B. Keeping of horses in the R1-15 and R1-10 district are permitted subject to a use permit provided the following conditions are met:

1. The zoning for such property was in effect prior to 1/20/85;

b.2. The rear *yard* of site with R1-15 and R1-10 districts abuts property in the agricultural district and the conditions, covenants and restrictions of such agriculturally zoned property permits the keeping of horses;

e.3. The *lots* in the R1-15 and R1-10 districts are not less than thirty thousand five hundred (30,500) square feet in area;

d.4. The minimum distance from the rear of the *dwelling* unit to the rear *property line* is not less than two hundred (200) feet;

e.5. The *lots* in the R1-15 and R1-10 districts are located south of Elliot Road; and

f.6. The number of horses permitted shall be determined by following the criteria set forth in Section 3-404B.

G.H. Dairy Farm. A dairy farm may be permitted with a *net site area* of forty (40) acres or more.

Section 3-405 Bed and Breakfast.

Bed and breakfast use, where allowed with a *use permit*, shall conform to all of the following standards:

A. Accessory Use. A *bed and breakfast* facility must be accessory to a residential use on the subject site. This means that the individual or *family* who operates the facility must occupy the *dwelling* as their primary residence.

B. Maximum Size. *Bed and breakfast* facilities are limited to a maximum of five (5) bedrooms for guests and the maximum occupancy per night shall be established by *use permit*.

C. Employees. *Bed and breakfast* facilities may have nonresident employees for the lodging activity such as booking rooms and food preparation, if approved as part of the *use permit*. *Hired service* for normal *maintenance*, repair and care of the residences or site such as *yard maintenance* may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of the *use permit* approval.

D. Service to Guests. Food *services* may only be provided to overnight guests of a *bed and breakfast* in residential districts. Food *service* may be provided to overnight guests and other guests in all *mixed-use* (MU) districts. Any other *service* is subject to the use requirements of the zoning district.

E. Meetings and Social Gatherings.

1. Commercial meetings – Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited at a *bed and breakfast* facility.
2. Private social gatherings – The residents/guests of *bed and breakfast* facilities may be allowed to have social gatherings, parties, or meetings if authorized in the *use permit*.

(Clarifies this section of who could have these social gatherings)

Section 3-406 Boutique.

Home, religious organization, or not-for-profit *service* organization boutiques, where permitted, shall conform to the following conditions:

- A. **Enclosed.** The boutique shall be carried on wholly within a *dwelling* unit, *school* (private), or a *place of worship*.
- B. **Products Sold.** The boutique shall primarily sell locally handcrafted items.
- C. **Operation.** The boutique shall operate for not more than any five (5) consecutive days in each one-half (1/2) calendar year at any one location. The activity shall be limited to the hours between 9:00 a.m. and 8:00 p.m.
- D. **Impacts.** There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare produced by the boutique. The activity shall not generate such additional traffic and *parking* in the area of the boutique which would create a traffic or safety hazard.
- E. **Signs.** All *signs* used by the boutique shall comply with this Code, Section 4-903C.
- F. **Sales Tax.** The boutique shall comply with the applicable transaction privilege (sales) tax provisions of the Tempe City Code (TCC) §16-1 et seq.
- G. **License.** The operator or sponsor of the boutique must apply for a city transaction privilege (sales) tax license a minimum of ten (10) days prior to the start of the boutique and obtain the license prior to conducting business.
- H. **Violation.** Any violation of the above conditions shall cause the immediate revocation of the boutique's privilege to transact business within the city.

Section 3-407 Day Care, In Home ~~7-10 Children~~.

~~Home day care for seven (7) to ten (10) children shall require a use permit and comply with the following conditions:~~

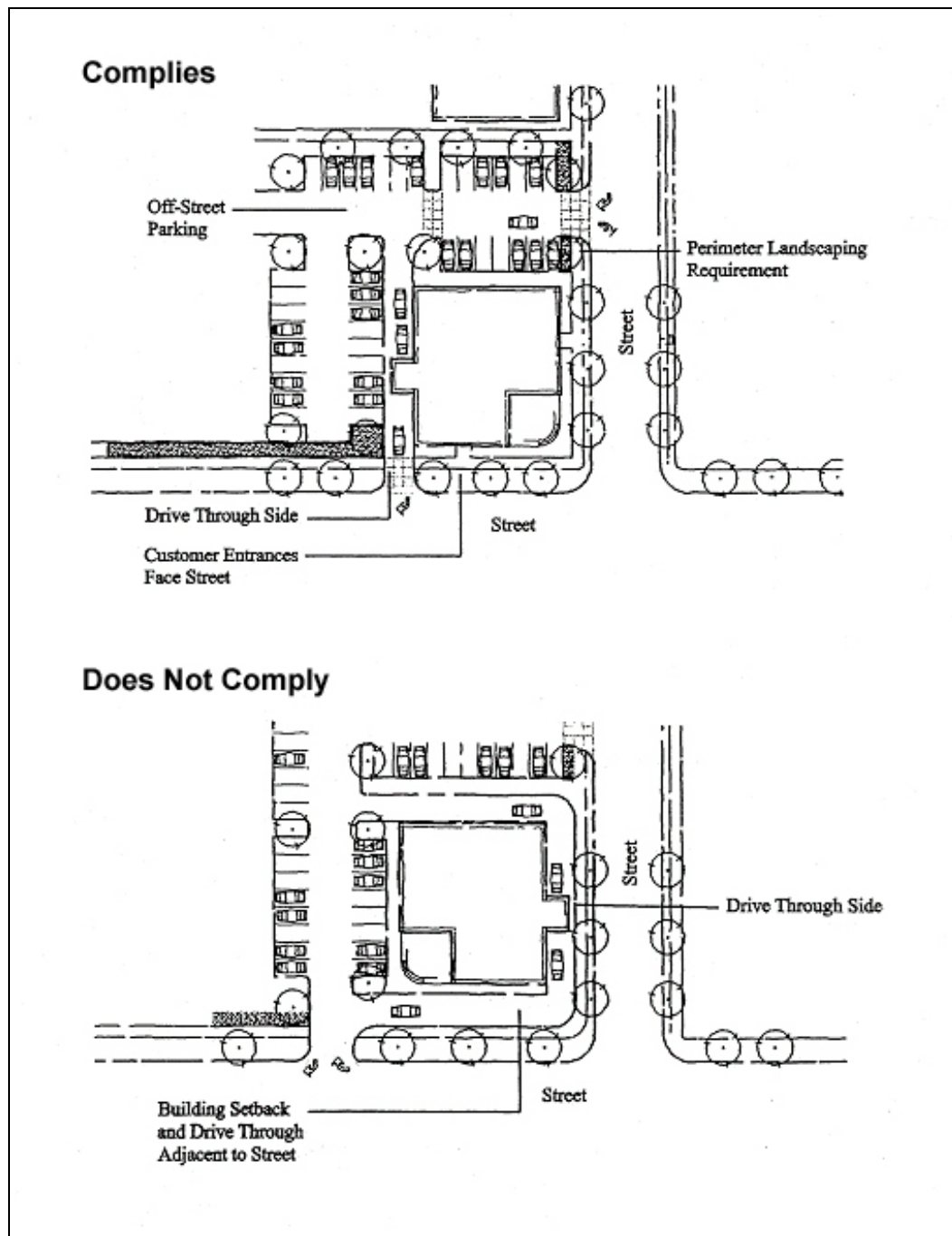
- A. **License and Certified.** Licensed, certified or approved by the State of Arizona; ~~and~~

- B. Administrative Review.** Such home ~~is~~must be reviewed and approved and have a certificate of occupancy issued for the use by the ~~City of Tempe,~~ Development Services ~~Department, Manager~~ for ~~current~~ building codes (including pool fence requirements) and land use code compliance prior to use commencing; ~~complying with state regulations related to the operation of day care facilities.~~ See Arizona Revised Statutes, Division 43; and-
- C. Use Permit.** In home day care for seven (7) to ten (10) children shall require a use permit and comply with the above conditions.
(This change is intended to clearly state what approvals must be obtained prior to the use commencing)

Section 3-408 Drive-Through Facilities.

New *drive-through facilities* shall be oriented toward side or rear yards and not placed between the *street* right-of-way and the primary customer entrance. Minimum width of drive-through lane is nine (9) feet.

Figure 3-408 Drive-Through Facilities Diagram



Section 3-409 Group Homes for Adult Care, Disabled Persons with Disabilities, and Child Shelter.

Group homes for adult care, disabled persons with disabilities, and child shelters shall comply with the following conditions:

- A. **Distribution of Uses.** No such home or shelter is located on a *lot* within one thousand two hundred (1,200) feet, measured by a straight line in any direction, from the *lot line* of another group home;
- B. **Occupancy.** The number of residents is limited by applicable state laws, including any minimum square footage requirement per person, but in no event shall the number of residents exceed ten (10);
- C. **License.** Such home is licensed by, or certified by, or approved by, or registered with, funded by or through, or under contract or subcontract with, the State of Arizona. See Arizona Revised Statutes, Division 36; and
- D. **Administrative Review Required.** Such home must be reviewed and approved by the Development Services Manager for building code and land use compliance prior to the use commencing.

Section 3-410 Guest Boarding Room.

A guest boarding room or sleeping room for rent in a single-family residence, shall provide occupancy for not more than two (2) persons, but in which and shall have no provision is made for cooking facilities and does not include dormitories for sleeping purposes. All points of ingress or egress to such room shall be located through the main residence of which such room is an integral part; this excludes doors opening to patios or balconies that are part of the main residence.

Section 3-411 Guest Quarters.

Guest quarters are designed to house guests of the residents of the main building on the site. Such quarters may provide cooking facilities, but shall not be rented or leased, or separate independently from the main building. The minimum floor area of the guest quarters shall not be less than two hundred twenty (220) square feet or the minimum required by the City of Tempe Building Code, whichever is greater. Such quarters shall be attached to the main building, carport or garage, or connected by a breezeway with a maximum distance of twenty-four (24) feet with a minimum width of eight (8) feet and shall be connected by the same roof structure. Guest quarters may provide cooking facilities.

- A. **Guest Quarters Permitted.** Guest quarters are permitted in the AG District when such guest quarters are attached to the main building, carport or garage, or when connected by a breezeway to the main building, carport or garage. Such breezeway shall extend no farther than thirty (30) feet from the main building, carport or garage, shall be a minimum of six (6) feet in width and shall be connected to the main building, carport or garage by a continuous matching roof structure.

B. Guest Quarters Permitted with a Use Permit. *Guest quarters may be permitted with a use permit for the following:*

1. *Guest quarters detached from the main building, carport or garage in the AG District; or*
2. *Guest quarters attached or detached from the main building, carport or garage in all Single-Family Residential Districts.*

Section 3-412 Home Occupation.

Home occupations are permitted subject to administrative review to allow small commercial ventures for which the leasing of commercial quarters is not cost effective and which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence.

Home occupations are permitted in all residential *dwellings* as an *accessory use* (see Section 7-102 for definition), subject to the following standards to protect the residential character of Tempe's neighborhoods:

A. Appearance of Residence.

1. The *home occupation* shall be restricted to lawfully-built enclosed *buildings* and be conducted in such a manner as not to give an outward appearance of a business;
2. The *home occupation* shall not result in any structural *alterations* or additions to a *building* that will change its primary use or building code occupancy classification;
3. The *home occupation* shall not violate any conditions of *development* approval (i.e., prior development permit approval);
4. Products and or equipment produced or used by the *home occupation* shall not be displayed or visible from outside any *building*; and
5. No offensive noise, vibrations, smoke, dust, odors, heat or glare shall be produced.

B. Storage.

1. On-site storage and use of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
2. Inventory, products, equipment, fixtures, and activities associated with the *home occupation* shall be allowed in any *building*, provided that the *building* conforms to the provisions under Section 3-412A, Appearance of Residence.

C. Employees.

~~1. 1. No person who is not a family member Other than family members residing within the dwelling located on the home occupation site, may work for the benefit of the home occupation without a use permit. there shall be no more than one (1) full time equivalent employee at the home occupation site at any given time. As used in this chapter, the term home occupation site means the lot on which the home occupation is conducted. A person who is not a family member residing within the dwelling located on the home occupation site is not permitted to work for the benefit of the home occupation without a use permit, but under no circumstance shall more than one such non-family member employee be permitted.~~

2. Additional individuals may be employed by or associated with the *home occupation*, so long as they do not report to work or pick up/deliver at the home.

3. The *home occupation* site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

D. Advertising and Signs. *Home occupations* may display address numerals and an *identification sign* no more than one (1) square foot in size in accordance with Section 4-902, related to *signs* permitted with residential uses.

E. Vehicles, Parking and Traffic.

1. Vehicles associated with the *home occupation* must comply with TCC Section 21-4.

2. There shall be no more than three (3) commercial vehicle deliveries to or from the *home occupation* site daily. There shall be no commercial vehicle deliveries during the hours of 10 p.m. to 7 a.m.

3. There shall be no more than one (1) client or customer vehicle on the premises at any one (1) time and the activity shall not generate traffic beyond that normal in its district.

F. Business Hours. Clients or customers are permitted at the *home occupation* from 7 a.m. to ~~10-8~~ p.m. only. Additional hours of operation for such use shall require the approval of a use permit.

G. Prohibited Uses: A *home occupation* shall not include the sale of commodities on premises nor the following: clubs, barber shops, beauty parlors, commercial stables, veterinary offices, hospitals, hotels, motels, kennels, restaurants, motor vehicle repairing, massage parlors, and any use that does not conform to the provisions in Section 3-412A-F.

Section 3-413 Hospitals, Sanitariums, and Nursing Homes.

Any *building* used for one (1) or more of the following uses shall be not less than fifty (50) feet from the *lot line* of any adjoining property: *Hospitals* or sanitariums for the treatment of human ailments, nursing or convalescent homes, orphanages, and institutions for the mentally *disabled*, epileptic, drug or alcoholic patients; homes for the aged, without cooking facilities in individual *dwelling* units; and related institutions of an educational, religious, or philanthropic nature.

Section 3-414 Live-Work.

Live-work is permitted in all *mixed-use* (MU) districts and in the CC and R/O districts, and is permitted with a *use permit* in the PCC-1, PCC-2, and all multi-family districts. *Live-work* is permitted to provide a housing and employment option that is transportation efficient and low-impact on adjacent neighborhoods. *Live-work* uses are subject to the standards for *home occupations* in Section 3-412, with the following exceptions:

- A. **Employees.** Two (2) ~~full time equivalent~~ employees, in addition to the *family* members residing in the *dwelling*, may work on premises as a matter of right. Additional employees may be authorized subject to the provisions of a use permit;
- B. **Signs.** *Signs* are permitted that do not exceed two (2) square feet of combined area for all *signs* ~~(wall, portable, blade, etc.)~~, and comply with the standards for commercial use *signs* in 4-902.
- C. **Vehicles, Parking and Traffic.** All *live-work* units in the MU-1, MU-2, MU-3, MU-4 and CC, PCC-1 and PCC-2 districts are exempt from the standards in Section 3-412E. All *live-work* units in multi-family districts (R-2, R-3, R-3R, R-4, and R-5) shall comply with Section 3-412E.

Section 3-415 Mini-Warehouse/Rental Storage Facilities.

~~Mini-warehouses~~rental storage facilities are for storage purposes only. No retailing is permitted from ~~these~~a rented storage facilitiesunit.

Section 3-416 Mobile Homes.

- A. **Access.** A minimum of two (2) vehicular entrances shall be provided for each *mobile home park*, *mobile home subdivision*, and *trailer park development*. One (1) entrance may be kept closed to the general public if provision is made for emergency access and if this entrance is not necessary to accommodate the volume of traffic generated by uses on the site.

- B. Perimeter Walls.** Perimeter boundaries of all *mobile home parks*, *mobile home subdivisions* and *trailer parks* shall have a perimeter wall with a minimum height of eight (8) feet, measured from the highest adjacent *grade* within twenty (20) feet. The wall shall be of masonry or concrete construction, with architectural texture, finish, and color to be compatible with other *buildings* in the vicinity. The perimeter wall shall be designed to create an attractive appearance, incorporating elements such as recesses, piers, pilasters, contrasting courses and texture. The area between the wall and the *public street* shall be *landscaped*, and the wall may contain pedestrian access gate(s), ~~which shall remain unlocked and allow police and emergency access from the street,~~ as approved through *development* plan review. *Street* frontage *landscape* areas of *mobile home* and *trailer park developments* shall be maintained by the *mobile home* or *trailer park* operators.

(This change is to resolve security concerns and potential liability)

Section 3-417 Outdoor Retailing, ~~Relating to Special Sporting Events.~~

~~Refer to Section 6-309L. Exceptions and Special Use Permit Provisions, for regulations on outdoor retailing, relating to special sporting events.~~

- A. Purpose.** ~~To allow sales of merchandise for a limited and temporary time without use of a permanent structure.~~

- B. Applicability.** ~~Outdoor retailing is allowed subject to a use permit and the following regulations:~~

- ~~1. Must be on the site specified by the use permit and outside of the public right-of-way;~~
- ~~2. Must have property owner's written authorization;~~
- ~~3. Outdoor retailing shall not occupy required parking areas, pedestrian paths, landscaped areas, or vehicular driveways (including fire lanes);~~
- ~~4. Any outdoor retailing must allow for a minimum six (6) foot wide pedestrian path across any building frontage and to and from all building entrances and exits;~~
- ~~5. The applicant must be in compliance with all regulations related to such permit and all applicable codes and laws;~~
- ~~6. Sound amplification may not be used for sales demonstrations; and~~
- ~~7. Outdoor retailing signage shall not exceed a total of three (3) square feetize and location shall be established by the use permit.~~

(This section establishes standards for outdoor retailing and replaces temporary sports paraphernalia retailing. Also see revisions to section 6-309 L.)

Section 3-418 Outdoor Retail Display.

- A. Purpose.** The purpose of this section is to allow a business or tenant to display an incidental amount of merchandise adjacent to the exterior of a *building*.

B. Applicability. Outdoor displays are allowed in the CC district only, subject to the following regulations:

1. Displays ~~are prohibited~~ in city right-of-way, ~~except in the CC district~~ are subject to an encroachment permit or lease;
2. Displays shall not occupy required *parking* areas, pedestrian paths, *landscaped* areas, or vehicular driveways (including fire lanes);
3. Displays shall be located within three (3) feet of the business space;
4. Any display must allow for a minimum six (6) foot wide pedestrian path across the *building* frontage and to and from all *building* entrances and exits;
5. Displays are limited to the normal hours of operation;
6. Solid display *structures* are limited to four (4) feet in height and total display area shall not obscure more than twenty five percent (25%) of window area;
7. Display merchandise shall be the same as that sold inside the store;
8. ~~Sound amplification may not be used for sales demonstrations~~ Sales demonstrations are allowed without amplification;
9. ~~Outdoor retail display signage shall not exceed a total of three (3) square feet~~ Point of display signage shall not exceed a total of three (3) square feet; and
10. Sale or Transaction of display items shall be made inside the place of business.

Section 3-419 Residential Sales Office, Temporary.

Temporary residential sales *offices* are permitted for the sale of homes being constructed on the premises and for a period not exceeding twenty-four (24) months. Extension of this time requires approval by the Hearing Officer or Board of Adjustment who shall find that the *office* meets the standards of this section and a hardship exists warranting the extension that is beyond the applicant's control. The residential sales *office* is subject to the following conditions:

A. Location. Temporary residential sales *offices* may be located in a *building* designed as a *dwelling* unit or in a modular *office building* located on the site.

B. Temporary Certificate of Occupancy ~~Permit~~. Prior to use of the premises as a temporary residential sales *office*, the sales office must meet all applicable building codes, and a temporary certificate of occupancy ~~permit~~ shall be obtained from the Development Services Manager.

(Clarifies requirements for occupancy)

- C. **Conversion and Final Approval of Dwelling.** Prior to the sale of any *dwelling* that has been used as a temporary residential sales *office*, the *dwelling* shall be restored to comply with all applicable codes and ordinances, and final approval obtained from the Development Services Department.

Section 3-420 Single-Family Residential Second Story Addition or Rebuild.

~~A use permit is required for any single story, single-family residence to add, expand, or rebuild for a second story. A second story addition to a single family dwelling, or a replacement of one (1) story single family dwelling with a dwelling of two (2) or more stories, is allowed with a use permit.~~ This section shall not apply to replacement *dwelling*s where the *dwelling* previously occupying a *lot* was demolished prior to the effective date of ~~the zoning ordinance~~ this Code.

Section 3-421 Wireless Telecommunication Facilities.

- A. **Towers:** Wireless telecommunications towers and related equipment facilities shall be allowed upon approval with a *use permit*. ~~Subject to the provisions of subsection C below, co-location on existing towers is subject only to an administrative review.~~
- B. **Building--Mounted:** Building--mounted telecommunications ~~(WTFs)~~ shall be integrated into the design of the *building* or be fully screened, and in either case must receive *development* plan approval as a *building* modification. Satellite dishes not exceeding two (2) feet in diameter shall be permitted in any zoning district. Building--mounted dishes shall require administrative review, except for residential uses. Building--mounted dishes greater than two (2) feet in diameter are permitted only in commercial, *mixed-use*, and *office/industrial* districts and shall require a *use permit*.
- C. **Co-location:** ~~WTFs--Wireless Telecommunication Facilities~~ may be co-located, subject to administrative review only. Any addition to the existing height or change in appearance of the tower, as determined by the Development Services Manager, to facilitate co-location ~~shall~~ may require a *use permit*. Wireless Telecommunication Facilities ~~WTFs to be~~ attached to existing light, power or telephone poles shall require a *use permit*.
Need to develop criteria for administrative review of co-location.
- D. **Application Requirements.** An applicant for a new Wireless Telecommunication Facilities ~~WTF~~ ~~(use permit or administrative review)~~ shall submit the following information:
1. *Use permit* application, including a *development plan*, when applicable.

2. For towers, monopoles, and similar proposals, a visual study containing, at a minimum, a vicinity map depicting where, within a one-half (1/2) mile radius, any portion of the proposed Wireless Telecommunication Facilities~~WTF~~ could be visible, and a scaled graphic simulation showing the appearance of the proposed tower and *accessory structures* from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation measures. Such points are to be mutually agreed upon by the Development Services Manager and the applicant.
3. Documentation of the steps that will be taken to minimize the visual impact of the proposed Wireless Telecommunication Facilities~~WTF~~.
4. A *landscape plan* drawn to scale that is consistent with the need for screening at the site. Any existing vegetation that is to be removed must be clearly indicated and provisions for mitigation included where appropriate.
5. A feasibility study for the co-location of telecommunication facilities as an alternative to new *structures*. The feasibility study shall include:
 - a. An inventory, including the location, ownership, height, and design of existing WTFs within one-half (1/2) mile of the proposed location of a new WTF. The ~~Development Services manager, Hearing Officer, or Board of Adjustment~~City may share such information with other applicants seeking permits for WTFs, but shall not, by sharing such information, in any way represent or warrant that such sites are available or suitable.
 - b. Applicant shall document efforts made to co-locate on existing towers. Each applicant shall make a good faith effort to contact the owner(s) of existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form and content of such contact. Co-location shall not be precluded simply because a fee for shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. Co-location costs exceeding new tower *development* are presumed to be unreasonable.
6. The Development Services Manager may request any other information deemed necessary to fully evaluate and review the application and the potential impact of a proposed tower and/or antenna.

E. Abandoned Tower/Antenna.

1. The wireless telecommunication tower/antenna shall be removed within thirty (30) days of discontinuance of the tower/antenna's use.

Section 3-422 Amateur Radio Antennas.

Amateur radio antennas for non-commercial use.

A. Antennas Permitted. Amateur radio antennas are permitted in all zoning districts subject to the following standards:

1. Antenna structures are allowed up to thirty-five (35) feet in height;
2. Antenna structures shall comply with setback standards for the zoning district in which it is located and in all residential zoning districts, shall be located in the rear half of the lot;
3. Antennas, including support structures, shall not extend beyond the property line; and
4. When a Federally Licensed Radio Amateur no longer occupies the subject property, the antenna structure shall be removed.

B. Antennas with a Use Permit. All amateur radio antennas that exceed thirty-five (35) feet in height, shall require approval of a *use permit*. Such antennas shall be of telescoping design and lowered to a height of no more than thirty-five (35) feet when not in use. In no event shall an amateur radio antenna exceed the height of seventy-five (75) feet.

CHAPTER 5 – NON-CONFORMING SITUATIONS USE OR DEVELOPMENT

Section 3-501 Purpose.

Section 3-502 General Provisions.

Section 3-503 Legal Non-Conforming Development.

Section 3-504 Legal Non-Conforming Use.

Section 3-505 Discontinuance of a Legal Non-Conforming Use.

Section 3-506 Damage to a Legal Non-Conforming Development.

Section 3-507 Legal Non-Conforming Lots of Record.

Section 3-501 Purpose.

The purpose of this section is to allow *non-conforming uses* and *developments* to continue, but not to encourage their perpetuation; and ultimately bring *development* and uses into conformance with this Code.

Section 3-502 General Provisions.

- A. Legal Non-Conforming Uses and Non-Conforming Developments.** Nothing in this Code shall affect existing property or the right to its continued use for the purpose used at the time the Code takes effect, nor to make any reasonable repairs or *alterations* in *buildings* or property used for such legal existing purpose.
- B. Approved Projects.** Nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any *building* for which a *building* permit has been lawfully issued prior to the effective date of adoption or amendment of this Code.

Section 3-503 Legal Non-Conforming Development.

All *developments* may be maintained but shall not be re-erected, relocated, or replaced unless brought into compliance with this Code.

Section 3-504 Legal Non-Conforming Use.

A *non-conforming use* may be expanded or enlarged to an extent not exceeding twenty-five percent (25%) of the land area or *building* floor area devoted to the use at the time it became non-conforming. Such expansion shall require a *use permit*.

Section 3-505 Discontinuance of a Legal Non-Conforming Use.

Whenever a *non-conforming use* has been abandoned or ceases to exist for a period in excess of one (1) year, such use shall not thereafter be re-established, as long as the period of non-use is attributable at least in part to the property owner, tenant or other person or entity in control of the use. For purposes of this Code, rental payments or lease payments and taxes shall not be considered as a continued use.

Section 3-506 Damage to a Legal Non-Conforming Development.

If a *non-conforming development* is damaged by any means to an extent exceeding fifty percent (50%) of its most recent, pre-damage valuation, as determined by a qualified appraiser, and as approved by the Development Services Manager, ~~a~~Any repair, replacement, or reconstruction of that *development* on the site shall conform to the requirements of the district in which it is located, unless the Development Services Manager deems a deviation from the requirements of this section is appropriate for Historic Preservation purposes.

Section 3-507 Legal Non-Conforming Lots of Record.

A legal, non-conforming *lot*, existing at the time of adoption of this Code, may be *developed* with a use permitted in the district for which the *lot* is zoned, subject to complying with the current standards of that district except for, *lot* size, width and depth.